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REMARKS

A Notice of Allowance was issued August 29, 2006 in the above-identified patent application.

The present amendment includes two new claims, 72 and 73, each of which depends directly from allowed independent claim 37. Claim 72 calls for a composition according to claim 37 wherein the nucleotide sequence is the nucleotide sequence of Figure 2 (SEQ ID No: 1), whereas claim 73 is directed to a composition according to claim 37 wherein the nucleotide sequence is a fragment of Figure 2 (SEQ ID No: 1) encoding a protein having said toxic activity.

These new claims are consistent with the Examiner's Reasons for Allowance, as set forth in the Notice of Allowability in this case. Specifically, the examiner acknowledged that the rejections then outstanding were overcome, in part, by applicant's argument that the claimed invention is limited to SEQ ID No: 1 and sequences within SEQ ID No: 1 which possess the toxic activity. It is noted in this regard that new claim 72 is directed to subject matter that was indicated as allowable in the November 25, 2005 Official Action, as indicated at pages 6-8 thereof.

No new matter has been introduced into this application by reason of the foregoing claim amendment.

The present amendment is believed to satisfy the requirements of 37 CFR §1.312, as it is being filed before payment of the issue fee and does not necessitate withdrawing the application from issue. Indeed, the present amendment requires no further examination or search, nor does it otherwise impose any unusual administrative burden on the PTO.

For the foregoing reasons, the entry of the present claim amendment is respectfully

requested.

Should there be a fee associated with this amendment, please charge Deposit Account

No. 04-1406 of the undersigned attorneys.

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